NO. 14-1	DATE: September 30, 2014

- 1. **PURPOSE.** To adopt along with the federal banking regulators a revised regulatory reporting policy in relation to loans that have previously been modified in a troubled debt restructuring (TDR) under generally accepted accounting principles (GAAP) for which the financial institution and the borrower subsequently enter into another restructuring agreement, and to provide further clarification of the circumstances in which the subsequent restructuring of a loan that is a TDR need no longer be treated as a TDR. Under certain circumstances specified in the enclosed statement of policy it may be acceptable not to account for the subsequently restructured loan as a TDR.
- 2. <u>APPLICABILITY</u>. This Bulletin sets forth new interagency regulatory reporting policy. It is applicable to all federally-insured credit unions.
- 3. **BACKGROUND.** As economic conditions have recently improved, credit unions frequently seek clarification around the circumstances in which a subsequent restructuring of a loan that is a troubled debt restructuring (TDR) need no longer be treated as a TDR, i.e., "once a TDR, always a TDR". When a loan has previously been modified in a TDR, the credit union and the borrower may subsequently enter into another restructuring agreement at market terms, including a contractual interest rate not less than a market interest rate for new debt with similar credit risk characteristics and other terms no less favorable to the institution than those it would offer for such new debt. Under what condition(s), if ever, may a credit union stop disclosing the loan as a TDR, and adjust its approach to recognizing impairment. As the federal financial institution regulators have seen diversity in practice, we are issuing this interagency policy to promote greater uniformity and consistency in regulatory reporting among financial institutions.
- 4. **POLICY.** When a loan has previously been modified in a TDR, the lending institution and the borrower may subsequently enter into another restructuring agreement. The facts and circumstances of each subsequent restructuring of a TDR loan should be carefully evaluated to determine the appropriate accounting by the institution under U.S. generally accepted accounting principles. Under certain circumstances it may be acceptable not to account for the subsequently restructured loan as a TDR. The federal financial institution regulatory agencies will not object to an institution no longer treating such a loan as a TDR if at the time of the subsequent restructuring the borrower is not experiencing financial difficulties and, under the terms of the subsequent restructuring agreement, no concession has been granted by the institution to the borrower. To meet these conditions for removing the TDR designation, the subsequent restructuring agreement must specify market terms, including a contractual interest rate not less than a market interest rate for new debt with similar credit risk characteristics and other terms no less favorable to the institution than those it would offer for such new debt. When assessing whether a concession has been granted by the institution, the agencies consider any principal forgiveness on a cumulative basis to be a continuing concession. When determining whether the borrower is experiencing financial difficulties, the

institution's assessment of the borrower's financial condition and prospects for repayment after the restructuring should be supported by a current, well-documented credit evaluation performed at the time of the restructuring. Please refer to the enclosed statement of interagency policy.

- 5. **EFFECTIVE DATE**. Credit unions may choose to apply this guidance prospectively to subsequently restructured loans that meet the conditions discussed above for removing the TDR designation. Institutions also may choose to apply this guidance to loans outstanding as of September 30, 2014, for which there has been a previous subsequent restructuring that met the conditions discussed above at the time of the subsequent restructuring. However, prior Call Reports should not be amended.
- 6. **EXPIRATION DATE**. This guidance is in effect until superseded, or incorporated elsewhere.

/s/

Larry Fazio
Director, Office of Examination and Insurance

Enclosure

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## Interagency Regulatory Reporting Policy on Accounting for a Subsequent Restructuring of a Troubled Debt Restructuring

When a loan has previously been modified in a troubled debt restructuring (TDR), the lending institution and the borrower may subsequently enter into another restructuring agreement. The facts and circumstances of each subsequent restructuring of a TDR loan should be carefully evaluated to determine the appropriate accounting by the institution under U.S. generally accepted accounting principles. Under certain circumstances it may be acceptable not to account for the subsequently restructured loan as a TDR. The federal financial institution regulatory agencies will not object to an institution no longer treating such a loan as a TDR if at the time of the subsequent restructuring the borrower is not experiencing financial difficulties and, under the terms of the subsequent restructuring agreement, no concession has been granted by the institution to the borrower. To meet these conditions for removing the TDR designation, the subsequent restructuring agreement must specify market terms, including a contractual interest rate not less than a market interest rate for new debt with similar credit risk characteristics and other terms no less favorable to the institution than those it would offer for such new debt. When assessing whether a concession has been granted by the institution, the agencies consider any principal forgiveness on a cumulative basis to be a continuing concession. When determining whether the borrower is experiencing financial difficulties, the institution's assessment of the borrower's financial condition and prospects for repayment after the restructuring should be supported by a current, well-documented credit evaluation performed at the time of the restructuring.

If at the time of the subsequent restructuring the institution appropriately demonstrates that a loan meets the conditions discussed above, the impairment on the loan need no longer be measured as a TDR in accordance with ASC Subtopic 310-10, Receivables - Overall (formerly FASB Statement No.114), and the loan need no longer be disclosed as a TDR in the Call Report, except as noted below. Accordingly, going forward, loan impairment should be measured under ASC Subtopic 450-20, Contingencies – Loss Contingencies (formerly FASB Statement No. 5). Even though the loan need no longer be measured for impairment as a TDR or disclosed as a TDR, the recorded investment in the loan should not change at the time of the subsequent restructuring (unless cash is advanced or received). In this regard, when there have been charge-offs prior to the subsequent restructuring, consistent with longstanding policy and practice, no recoveries should be recognized until collections on amounts previously charged off have been received. Similarly, if interest payments were applied to the recorded investment in the TDR loan prior to the subsequent restructuring, the application of these payments to the recorded investment should not be reversed nor reported as interest income at the time of the subsequent restructuring.

If the TDR designation is removed from a loan that meets the conditions discussed above and the loan is later modified in a TDR or individually evaluated and determined to be impaired, then the impairment on the loan should be measured under ASC Subtopic 310-10 and, if appropriate, the loan should be disclosed as a TDR.

For a subsequently restructured TDR loan on which there was principal forgiveness and therefore does not meet the conditions discussed above, the impairment on the loan should continue to be measured as a TDR. However, if the subsequent restructuring agreement specifies a contractual interest rate that, at the time of the subsequent restructuring, is not less than a market interest rate for new debt with similar credit risk characteristics and the loan is performing in compliance with its modified terms after the subsequent restructuring, the loan need not continue to be reported as a TDR in Schedule A, Section 5, Troubled Debt Restructured Loans, in calendar years after the year in which the subsequent restructuring took place. To be considered in compliance with its modified terms, a loan that is a TDR must be in accrual status and must be current or less than 30 days past due on its contractual principal and interest payments under the modified repayment terms.

Institutions may choose to apply this guidance prospectively to subsequently restructured loans that meet the conditions discussed above for removing the TDR designation. Institutions also may choose to apply this guidance to loans outstanding as of September 30, 2014, for which there has been a previous subsequent restructuring that met the conditions discussed above at the time of the subsequent restructuring. However, prior Call Reports should not be amended.